IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

S.C.SUIT NO.2709 OF 1991

The Mahanagar Telephone Nigam Ltd. ...Plaintiffs

V/s.

Shri Uttamchand B.Jain ...Defendant

.....

Mr.V.D.Shukla i/b Shukla & Associates for Plaintiffs.

Mr.S.G.Bhandari for Defendant.

.....

CORAM: A.M.KHANWILKAR, J.

OCTOBER 26, 2007.

P.C.

1. This Suit has been filed by the Plaintiffs for recovery of amount due and payable by the Defendant under five different telephone bills in relation to telephone No.8518421. The Defendant has filed written statement and has maintained his stand by disputing the claim of the Plaintiffs being excessive one. In that sense, dispute has been raised with regard to the correctness of the amount claimed under the suit bills, which dispute

is squarely covered by Section 7B of the Indian Telegraphs Act. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

2. Having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs. V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545**, the matter deserves to be referred to arbitration. The reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

3. Counsel for the Defendant fairly submits that since it is a remedy of statutory arbitration, the Defendant is willing to submit to the said proceedings instead of prosecuting the present Suit. However, the Defendant be permitted to raise all contentions available including that the suit claim had become barred by limitation.

4. The Central Government shall notify the arbitrator before whom the present dispute will be

tried and decided in arbitration. The Plaintiffs to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

5. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

6. Needless to observe that all questions raised in the present Suit at the instance of either side will have to be decided on its own merits in accordance with law in the arbitration proceedings.

7. In view of the above order, the Suit is disposed of. Refund as per rules.

A.M.KHANWILKAR, J.